

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOMINIQUE ZAFIR CASEY,
Plaintiff,
v.
HADDAD, et al.,
Defendants.

Case No. 1:21-cv-00855-SKO (PC)

**FINDINGS AND RECOMMENDATIONS
TO DENY PLAINTIFF'S MOTION TO
PROCEED *IN FORMA PAUPERIS***

(Doc. 2)

14-DAY DEADLINE

Clerk of the Court to Assign District Judge

Plaintiff Dominique Zafir Casey is a state prisoner proceeding *pro se* in this action. On May 27, 2021, Plaintiff filed a motion to proceed *in forma pauperis* (IFP) pursuant to 28 U.S.C. § 1915. (Doc. 2.) According to the inmate trust account statement submitted by the California Department of Corrections and Rehabilitation, Plaintiff had more than \$1,000 in his trust account as of March 4, 2021, and approximately \$470 as of May 19, 2021, (Doc. 6). This is enough to pay the \$402 filing fee for this action. Therefore, the Court issued an order to show cause why Plaintiff's motion to proceed IFP should not be denied. (Doc. 8.) In his response to the order, Plaintiff states that he misunderstood the purpose of the IFP application, and that he believed it "was an agreement . . . to take the money" for the filing fee from his account.¹ (Doc. 9.)

¹ Plaintiff also requests that the Court deduct the filing fee from his inmate trust account. (Doc. 9.) However, the Court does not arrange for the payment of filing fees. Plaintiff must arrange for payment of the fee with the appropriate prison personnel.

1 Proceeding “in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114,
2 116 (9th Cir. 1965). While a party need not be completely destitute to proceed *in forma pauperis*,
3 *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), “the same even-handed
4 care must be employed to assure that federal funds are not squandered to underwrite, at public
5 expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole
6 or in material part, to pull his own oar,” *Doe v. Educ. Enrichment Sys.*, No. 15-cv-2628-MMA-
7 MDD, 2015 U.S. Dist. LEXIS 173063, *2 (S.D. Cal. 2015) (citation omitted).

8 Plaintiff has adequate funds to pay the filing fee for this action in full. Accordingly, the
9 Court RECOMMENDS that his motion to proceed *in forma pauperis* (Doc. 2) be DENIED. The
10 Court DIRECTS the Clerk of the Court to assign a district judge to this action.

11 These Findings and Recommendations will be submitted to the United States District
12 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of
13 service of these Findings and Recommendations, Plaintiff may file written objections with the
14 Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and
15 Recommendations.” Failure to file objections within the specified time may result in waiver of
16 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
17 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18
19 IT IS SO ORDERED.

20 Dated: **June 17, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE